East Indies. – Eenigde Nederlandsche Geoctroijeerde Oost Indische Compag.

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The CASE *briefly ſtated, between the* East-India Company *of the* United Netherlands, *and the Aſſigns of* William Courten, *with ſome Queries reſolved upon the* Caſe.

William Courten of London Merchant, being intereſted in the two Ships named the *Henry Bona Adventure*, and *Bona Eſperanza*, ſets them forth (*inter alia*) to Sea for trading Voyages in the *Eaſt-Indies*. May 12. 1641.

William Courten being indebted to ſeveral perſons for 100000 *l.* and upwards, and Sir *Edward Littleton* being bound with him for the ſaid Debts, *W. Courten* grants all his Intereſt, Stock, Freight, and Merchandizes in the ſaid Ships (*inter alia*) to Sir *Edward Littleton* for the Conſideration of 20 *s.* and to indempniſie him from the ſaid Debts; Provided that if *William Courten* or his Executors pay the ſaid Debts within 27 months, and ſave Sir *Edward Littleton* harmleſs, then the Grant to be void. Apr. 26. 1642.

William Courten and Sir *Edward Littleton* by Indenture tripartite, reciting the firſt Deed, and a great debt of 24000 *l.* due to Sir *Paul Pindar*, for a further ſecurity of that debt, grants to Sir *Paul Pindar*, his Executors and Aſſigns, all the ſaid Ships Stock, Merchandize, and their whole Intereſt therein, with the policies of Aſſurance, under divers agreements; the effect whereof is, that Sir *Paul Pindar* ſhould have ſatisfaction by ſeveral proportions out of each Ship, and the reſidue to be to Sir *Edward Littleton* for the purpoſes in the ſaid Indenture; by all which it appears, that Sir *Paul Pindar* was not to have more then ſatisfaction of his Debt, but after that ſhould be ſatisfied in ſuch manner as is expreſſed in the ſaid Indenture, the benefit of the Surplus was to be for Sir *Edward Littleton* and *William Courten*. Dec. 19 1642.

The Debts for which Sir *Edward Littleton* was bound, are not diſcharged within the 27 months, nor yet are diſcharged to this time, *Anno* 1663.

The Ship *Bona Eſperanza* and her Lading is ſurprized in her Voyage, by the Agents and Miniſters of the *Eaſt-India Company* of the *Netherlands*, and the *Bona Adventure* taken into their poſſeſſion, to the damage of the Proprietors 85000 *l. ſterl.* as appears by the proofs taken in the Court of Admiralty; beſides the *damnum emergens* by loſs of their Trade. Anno 1643.

William Courten makes a Letter of Atturney to *Jacob Pergens* of *Amſterdam*, to ſue the *Eaſt-India Company* for the ſaid Ships and Goods, to the uſe of *Courten*. Oct. 26. 1645.

Sir *Paul Pindar* makes a Letter of Atturney to *Jonas Abeeles* of *Amſterdam*, to ſue the ſaid Company for the Ships and Goods, to the uſe of *Pindar*, and ſent over his Indenture tripartite, ſetting forth the aſſurance and condition of the Grant at large. Feb. 11. 1647.

William Courten having abſented himſelf from *England*, did in *Holland* make a pretended Bargain and tranſport of the ſaid Ships and Goods to *Jacob Pergens*. Feb. 22. 1648.

Jonas Abeeles intimated his Claim in writing, and ſent it by a publick Notary to the Directors of the *Eaſt-India Company*, ſetting forth his Procuration from Sir *Paul Pindar*, and the Grant to him from *Courten* and *Littleton* as aforeſaid; proteſting that if they made any agreement with *Pergens*, it ſhould be of no effect, and that they ſhould pay the money again to him in right of Sir *Paul Pindar*. May 25. 1648.

Jonas Abeeles cauſed to be arreſted in the hands of the *Eaſt-India Company*, all the money and total ſumme which ſhould by liquidation and agreement to be made with the ſaid *Courten* for the ſaid Ships and Goods, and the *Eſcheevens* in Court declared the Arreſt to be valid. Nov. 13. 1648.

Notwithſtanding the ſaid Intimation, proteſt and Arreſt, the Directors of the *Eaſt-India Company* alledging the King of *England* was dead, made an agreement with the ſaid *Jacob Pergens* and one *David Goubart* for 85000 *Gilders*, for the Ships, Goods and Dammages aforeſaid, which was paid accordingly, upon caution given by the ſaid *Jacob Pergens* and *Peter Boudan Courten*, to indempniſie the ſaid Company againſt *Pindar* and others. Sept. 18. 1649.

Jonas Abeeles brought an Action before the *Eſcheevens* in *Amſterdam*, againſt the Directors of the *Eaſt-India Company*, for the ſaid 85000 *Gilders* with Intereſt for the ſame, untill effectual payment thereof to him for the uſe of *Pindar*. Febr. 17. 1650.

Sept. 13. 1650. The Directors of the *Eaſt-India Company* ſummoned *Jacob Pergens* and *Peter Bondan Courten* before the ſaid *Eſcheevens*, to indempnifie them from all after Claims of money, and to free them from all Coſts and Damages of Sir *Paul Pindar* and others.

Anno 1652. Sir *Paul Pindar* dyed, and ſoon after *Jonas Abeeles* dyed, ſo the buſineſs reſted untill the Kings moſt happy reſtauration into *England*.

Anno 1662. Upon his Majeſties Letters to the *States General*, requiring ſatisfaction and reparation to be given to the parties intereſted and injured, after many debates between Sir *George Downing* Knight and Baronet, his Majeſties Envoy Extraordinary, and the Deputies of the *States General* for *Engliſh* Affairs, the Damages of the two Ships were excepted in the 15. Article of the Treaty made the 4th. of *September* 1662. from the general abolition of Injuries and Damages, in theſe words: *Hoc excepto, quod ſcilicet qui ſe jacturam paſſos dicant in duabus Navibus, viz.* Bona Adventura & Bona Eſperanza, *poterunt litem ſuceptam proſequi.* Which was to be proſecuted in the way Sir *George Downing* had begun by the Kings Orders and Commands.

An. 1663. & 1664. Sir *George Downing* in purſuance of his Majeſties further Orders, made ſeveral freſh Addreſſes to the *States General* for ſatisfaction of the ſaid Damages, and that they would Order the *Eaſt-India Company* to liquidate the Accounts, and make reſtitution accordingly.

During the ſaid diſpute and controverſie, the Advocates of the *Eaſt-India Company* made theſe two Objections,

First, *That the Grants to Sir* Edward Littleton *and Sir* Paul Pindar *were not good and effectual in Law, being only a Security, and that movables could not be transferred by Deed, without the poſſeſſion given.*

Secondly, *That the Aſſignment from* Courten *to* Pergens *was valid, and the Compoſition made by him with the* Eaſt-India Company *good and effectual againſt* Littleton *and* Pindar.

asserting yt a marchant in London may sell his goods in his factors hands at Amsterdam

And deſired to ſee the Opinions and Reſolution of the moſt able Lawyers in *England* under their Hands, as to thoſe Points, which was returned into *Holland* ſubſcribed by Sir *John Glynn*, Sir *John Maynard*, and Sir *Edward Turnor* Speaker in Parliament, giving their Reaſons of the Law in the Caſe at large; affirming, That the Grant to Sir *Paul Pindar* was good, and conſequently that to *Jacob Pergens* void: aſſerting, **That a Merchant in London may** [illegible] **his Factors hands at Amſterdam, for that the poſſeſſion by the Law of England goeth with the property, and where the right or property is, there by the Law is the poſſeſſion, unleſs ſome other perſon obtain actual poſſeſſion as a Treſpaſſer.** Yet all proved ineffectual and to no purpoſe.

Anno 1665. Then the King by his Letters Patents under the Great Seal of *England*, reciting the ſubſtance of all the proceedings, with the Debt ſtated by the Judge of the High Court of Admiralty, amounting to 151612 *l.* and in whom the Property was veſted, gave Commiſſion and Authority to Sir *Edmund Turnor* Knight, and *George Carew* Eſq; to equipp and ſet forth Ships and Pinnaces to Sea, to ſeiſe and apprehend the Ships, Goods and Merchandizes of the Subjects of the *States General*, to be of force untill they ſhould have reprized the ſaid Debt, Damages and Charges to the uſe of themſelves, and the reſt of the perſons intereſted in the ſame.

That after vaſt expences in ſetting forth Ships to reprize the ſaid Damages, and before any thing conſiderable was gotten towards the charge of equipping the ſaid Private Men of War, the *Dutch* during the Treaty at *Breda* made ſeveral Attaques upon his Majeſties Ships at *Chatham*, and other Ports, and procured theſe Articles following (*inter alia*) to be agreed upon in the ſaid Treaty.

Three ſelect Articles of the Treaty [illegible] *the King of* England, Scotland, France *and* Ireland, *and the States General of the* United Netherlands, *concluded at* Breda *July* $\frac{21}{31}$ 1667.

Artic. 3.

Alſo, That all Offences, Injuries, Damages, Loſſes, which his ſaid Majeſty and his Subjects, or the foreſaid States General and their Subjects have on either ſide ſuſtained during this War, or at any time whatſoever heretofore, upon what Cauſe or Pretence ſoever, be buried in Oblivion, and totally expunged out of Remembrance, as if no ſuch things had ever paſt.

Artic.